

1982—Pub. L. 97-295 substituted “Hospital care, medical services, and nursing home care abroad” for “Hospital care and medical services abroad” in section catchline, without regard to a prior amendment by Pub. L. 93-82, which had substituted “Hospital care, medical services and nursing home care abroad” for “Hospital care and medical services abroad”. See 1973 Amendment note below.

1981—Subsec. (d). Pub. L. 97-72 struck out “and at the same rate as specified in section 632(a)(4) of this title” after “on the same terms and conditions set forth in section 620(a) of this title”.

1978—Subsec. (c). Pub. L. 95-520 substituted “Veterans Memorial Medical Center” for “Veterans Memorial Hospital”.

1976—Subsec. (c). Pub. L. 94-581 substituted “the Administrator may furnish” for “he may furnish” and “hospital care to a veteran for any” for “hospital care to a veteran of any war for any”.

1973—Pub. L. 93-82, §108(b), substituted “Hospital care, medical services and nursing home care abroad” for “Hospital care and medical services abroad” in section catchline.

Subsec. (d). Pub. L. 93-82, §108(a), added subsec. (d).

1962—Subsec. (b). Pub. L. 87-815 struck out “temporarily” before “sojourning”.

1960—Subsec. (a). Pub. L. 86-624 substituted “outside any State” for “outside the continental limits of the United States, or a Territory, Commonwealth, or possession of the United States”.

1959—Subsec. (b). Pub. L. 86-152 extended authority to provide hospital and medical care for veterans who are United States citizens temporarily residing abroad to include those with peacetime service-incurred disabilities.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as a note under section 111 of this title.

#### EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as a note under section 1701 of this title.

### § 1725. Reimbursement for emergency treatment

(a) GENERAL AUTHORITY.—(1) Subject to subsections (c) and (d), the Secretary shall reimburse a veteran described in subsection (b) for the reasonable value of emergency treatment furnished the veteran in a non-Department facility.

(2) In any case in which reimbursement is authorized under subsection (a)(1), the Secretary, in the Secretary's discretion, may, in lieu of reimbursing the veteran, make payment of the reasonable value of the furnished emergency treatment directly—

(A) to a hospital or other health care provider that furnished the treatment; or

(B) to the person or organization that paid for such treatment on behalf of the veteran.

(b) ELIGIBILITY.—(1) A veteran referred to in subsection (a)(1) is an individual who is an active Department health-care participant who is personally liable for emergency treatment furnished the veteran in a non-Department facility.

(2) A veteran is an active Department health-care participant if—

(A) the veteran is enrolled in the health care system established under section 1705(a) of this title; and

(B) the veteran received care under this chapter within the 24-month period preceding the furnishing of such emergency treatment.

(3) A veteran is personally liable for emergency treatment furnished the veteran in a non-Department facility if the veteran—

(A) is financially liable to the provider of emergency treatment for that treatment;

(B) has no entitlement to care or services under a health-plan contract (determined, in the case of a health-plan contract as defined in subsection (f)(2)(B) or (f)(2)(C), without regard to any requirement or limitation relating to eligibility for care or services from any department or agency of the United States);

(C) has no other contractual or legal recourse against a third party that would, in whole, extinguish such liability to the provider; and

(D) is not eligible for reimbursement for medical care or services under section 1728 of this title.

(c) LIMITATIONS ON REIMBURSEMENT.—(1) The Secretary, in accordance with regulations prescribed by the Secretary, shall—

(A) establish the maximum amount payable under subsection (a);

(B) delineate the circumstances under which such payments may be made, to include such requirements on requesting reimbursement as the Secretary shall establish; and

(C) provide that in no event may a payment under that subsection include any amount for which the veteran is not personally liable.

(2) Subject to paragraph (1), the Secretary may provide reimbursement under this section only after the veteran or the provider of emergency treatment has exhausted without success all claims and remedies reasonably available to the veteran or provider against a third party for payment of such treatment.

(3) Payment by the Secretary under this section on behalf of a veteran to a provider of emergency treatment shall, unless rejected and refunded by the provider within 30 days of receipt, extinguish any liability on the part of the veteran for that treatment. Neither the absence of a contract or agreement between the Secretary and the provider nor any provision of a contract, agreement, or assignment to the contrary shall operate to modify, limit, or negate the requirement in the preceding sentence.

(4)(A) If the veteran has contractual or legal recourse against a third party that would only, in part, extinguish the veteran's liability to the provider of the emergency treatment, and payment for the treatment may be made both under subsection (a) and by the third party, the amount payable for such treatment under such subsection shall be the amount by which the costs for the emergency treatment exceed the amount payable or paid by the third party, except that the amount payable may not exceed the maximum amount payable established under paragraph (1)(A).

(B) In any case in which a third party is financially responsible for part of the veteran's emergency treatment expenses, the Secretary shall be the secondary payer.

(C) A payment in the amount payable under subparagraph (A) shall be considered payment in full and shall extinguish the veteran's liability to the provider.

(D) The Secretary may not reimburse a veteran under this section for any copayment or similar payment that the veteran owes the third party or for which the veteran is responsible under a health-plan contract.

(d) INDEPENDENT RIGHT OF RECOVERY.—(1) In accordance with regulations prescribed by the Secretary, the United States shall have the independent right to recover any amount paid under this section when, and to the extent that, a third party subsequently makes a payment for the same emergency treatment.

(2) Any amount paid by the United States to the veteran (or the veteran's personal representative, successor, dependents, or survivors) or to any other person or organization paying for such treatment shall constitute a lien in favor of the United States against any recovery the payee subsequently receives from a third party for the same treatment.

(3) Any amount paid by the United States to the provider that furnished the veteran's emergency treatment shall constitute a lien against any subsequent amount the provider receives from a third party for the same emergency treatment for which the United States made payment.

(4) The veteran (or the veteran's personal representative, successor, dependents, or survivors) shall ensure that the Secretary is promptly notified of any payment received from any third party for emergency treatment furnished to the veteran. The veteran (or the veteran's personal representative, successor, dependents, or survivors) shall immediately forward all documents relating to such payment, cooperate with the Secretary in the investigation of such payment, and assist the Secretary in enforcing the United States right to recover any payment made under subsection (c)(3).

(e) WAIVER.—The Secretary, in the Secretary's discretion, may waive recovery of a payment made to a veteran under this section that is otherwise required by subsection (d)(1) when the Secretary determines that such waiver would be in the best interest of the United States, as defined by regulations prescribed by the Secretary.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "emergency treatment" means medical care or services furnished, in the judgment of the Secretary—

(A) when Department or other Federal facilities are not feasibly available and an attempt to use them beforehand would not be reasonable;

(B) when such care or services are rendered in a medical emergency of such nature that a prudent layperson reasonably expects that delay in seeking immediate medical attention would be hazardous to life or health; and

(C) until—

(i) such time as the veteran can be transferred safely to a Department facility or other Federal facility and such facility is capable of accepting such transfer; or

(ii) such time as a Department facility or other Federal facility accepts such transfer if—

(I) at the time the veteran could have been transferred safely to a Department

facility or other Federal facility, no Department facility or other Federal facility agreed to accept such transfer; and

(II) the non-Department facility in which such medical care or services was furnished made and documented reasonable attempts to transfer the veteran to a Department facility or other Federal facility.

(2) The term "health-plan contract" includes any of the following:

(A) An insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement under which health services for individuals are provided or the expenses of such services are paid.

(B) An insurance program described in section 1811 of the Social Security Act (42 U.S.C. 1395c) or established by section 1831 of that Act (42 U.S.C. 1395j).

(C) A State plan for medical assistance approved under title XIX of such Act (42 U.S.C. 1396 et seq.).

(D) A workers' compensation law or plan described in section 1729(a)(2)(A) of this title.

(3) The term "third party" means any of the following:

(A) A Federal entity.

(B) A State or political subdivision of a State.

(C) An employer or an employer's insurance carrier.

(D) An automobile accident reparations insurance carrier.

(E) A person or entity obligated to provide, or to pay the expenses of, health services under a health-plan contract.

(Added Pub. L. 106-117, title I, §111(a), Nov. 30, 1999, 113 Stat. 1553; amended Pub. L. 110-387, title IV, §402(a), Oct. 10, 2008, 122 Stat. 4123; Pub. L. 111-137, §1(a), (b), Feb. 1, 2010, 123 Stat. 3495.)

#### REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (f)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

#### AMENDMENTS

2010—Subsec. (b)(3)(C). Pub. L. 111-137, §1(a)(1), struck out "or in part" after "in whole".

Subsec. (c)(4). Pub. L. 111-137, §1(b), added par. (4).

Subsec. (f)(2)(E). Pub. L. 111-137, §1(a)(2), struck out subpar. (E) which read as follows: "A law of a State or political subdivision described in section 1729(a)(2)(B) of this title."

2008—Subsec. (a)(1). Pub. L. 110-387, §402(a)(1), substituted "shall reimburse" for "may reimburse".

Subsec. (f)(1)(C). Pub. L. 110-387, §402(a)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: "until such time as the veteran can be transferred safely to a Department facility or other Federal facility".

#### EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-137, §1(c), Feb. 1, 2010, 123 Stat. 3495, provided that:

"(1) IN GENERAL.—The amendments made by subsections (a) and (b) [amending this section] shall take

effect on the date of the enactment of this Act [Feb. 1, 2010], and shall apply with respect to emergency treatment furnished on or after the date of the enactment of this Act.

“(2) REIMBURSEMENT FOR TREATMENT PROVIDED BEFORE EFFECTIVE DATE.—The Secretary may provide reimbursement under section 1725 of title 38, United States Code, as amended by subsections (a) and (b), for emergency treatment furnished to a veteran before the date of the enactment of this Act [Feb. 1, 2010], if the Secretary determines that, under the circumstances applicable with respect to the veteran, it is appropriate to do so.”

#### EFFECTIVE DATE

Pub. L. 106-117, title I, §111(c), Nov. 30, 1999, 113 Stat. 1556, provided that: “The amendments made by this section [enacting this section and amending section 1729A of this title] shall take effect 180 days after the date of the enactment of this Act [Nov. 30, 1999].”

#### IMPLEMENTATION REPORTS

Pub. L. 106-117, title I, §111(d), Nov. 30, 1999, 113 Stat. 1556, provided that: “The Secretary [of Veterans Affairs] shall include with the budget justification materials submitted to Congress in support of the Department of Veterans Affairs budget for fiscal year 2002 and for fiscal year 2003 a report on the implementation of section 1725 of title 38, United States Code, as added by subsection (a). Each such report shall include information on the experience of the Department under that section and the costs incurred, and expected to be incurred, under that section.”

### § 1726. Reimbursement for loss of personal effects by natural disaster

The Secretary shall, under regulations which the Secretary shall prescribe, reimburse veterans in Department hospitals and domiciliaries for any loss of personal effects sustained by fire, earthquake, or other natural disaster while such effects were stored in designated locations in Department hospitals or domiciliaries.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1144, §627; Pub. L. 93-82, title I, §105, Aug. 2, 1973, 87 Stat. 183; Pub. L. 94-581, title II, §210(a)(12), Oct. 21, 1976, 90 Stat. 2863; renumbered §1726 and amended Pub. L. 102-83, §§4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406.)

#### PRIOR PROVISIONS

Prior section 1726, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1197, provided for control by agencies of United States, prior to repeal by Pub. L. 89-358, §3(a)(3), Mar. 3, 1966, 80 Stat. 20. See section 3689 of this title.

#### AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 626 of this title as this section.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in two places.

Pub. L. 102-83, §4(a)(3), (4), substituted “Department” for “Veterans’ Administration” in two places.

1976—Pub. L. 94-581 substituted “the Administrator shall prescribe” for “he shall prescribe”.

1973—Pub. L. 93-82 substituted “natural disaster” for “fire” in section catchline and extended reimbursement provisions to earthquake and other natural disasters also.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as a note under section 111 of this title.

#### EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Jan. 1, 1971, see section 501 of Pub. L. 93-82, set out as a note under section 1701 of this title.

### § 1727. Persons eligible under prior law

Persons who have a status which would, under the laws in effect on December 31, 1957, entitle them to the medical services, hospital and domiciliary care, and other benefits, provided for in this chapter, but who do not meet the service requirements contained in this chapter, shall be entitled to such benefits notwithstanding failure to meet such service requirements.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1144, §627; Pub. L. 94-581, title II, §202(m), Oct. 21, 1976, 90 Stat. 2856; renumbered §1727 Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

#### AMENDMENTS

1991—Pub. L. 102-83 renumbered section 627 of this title as this section.

1976—Pub. L. 94-581 substituted “1957” for “1958”.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as a note under section 111 of this title.

### § 1728. Reimbursement of certain medical expenses

(a) The Secretary shall, under such regulations as the Secretary prescribes, reimburse veterans eligible for hospital care or medical services under this chapter for the customary and usual charges of emergency treatment (including travel and incidental expenses under the terms and conditions set forth in section 111 of this title) for which such veterans have made payment, from sources other than the Department, where such emergency treatment was rendered to such veterans in need thereof for any of the following:

(1) An adjudicated service-connected disability.

(2) A non-service-connected disability associated with and held to be aggravating a service-connected disability.

(3) Any disability of a veteran if the veteran has a total disability permanent in nature from a service-connected disability.

(4) Any illness, injury, or dental condition of a veteran who—

(A) is a participant in a vocational rehabilitation program (as defined in section 3101(9) of this title); and

(B) is medically determined to have been in need of care or treatment to make possible the veteran’s entrance into a course of training, or prevent interruption of a course of training, or hasten the return to a course of training which was interrupted because of such illness, injury, or dental condition.

(b) In any case where reimbursement would be in order under subsection (a) of this section, the Secretary may, in lieu of reimbursing such veteran, make payment of the reasonable value of emergency treatment directly—

(1) to the hospital or other health facility furnishing the emergency treatment; or